S.B. CIVIL WRIT PETITION NO.2480/2004

Rama Ram and others Vs. State of Raj. and others.

Date : 6.4.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Sajjan Singh, for the petitioners.

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Heard learned counsel for the petitioners.

It appears that the Board of Revenue by order dated 7.5.2004 accepted the reference under Section 82 of the Rajasthan Land Revenue Act and set aside the mutation no.100 which was in favour of the petitioner for the land bearing khasra no.165 measuring 135 bighas situated in Village Dungarpur, District Pali, after holding that the land in question was belonging to deity and still it belongs to the deity and the entry was made in the communication of the petitioner by the mutation in question. In the revenue record, it has wrongly been recorded that the petitioners are khatedar tenants of the land in question.

Learned counsel for the petitioners submitted that though the land in question was originally belonging to the deity but after coming into force of the Rajasthan Land Reforms and Resumption of Jagirs Act, 1952, the person in cultivatory occupation and who was recorded as khatedar,

became a khatedar tenant of the land and, therefore, the land in question ceased to be doli land or land of deity and the khatedari right accrued to the person who was recorded as khatedar for the land in question. The petitioners purchased the land by registered sale deed and, therefore, they became the khatedar tenant of the land in dispute.

Since the order impugned has been passed under fiscal proceedings for correction of the entry and the original order against the petitioners has been passed only in appeal, therefore, the petitioners have effective remedy to protect their right by filing a suit for declaration where all these factual aspects about the nature of the land, the rights which were available to the person whose name has been entered in the revenue record, can be examined.

The term of tenancy etc. can also be examined only after proper appreciation by the revenue court.

Since any order passed in mutation proceedings is not binding on the Court trying the regular suit for declaration because of the fact that the mutation proceedings itself are fiscal proceedings, therefore, the revenue court may decide the suit of the plaintiff on its own merit irrespective of any finding recorded by the Board of Revenue in its order dated 7.5.2004.

In view of the above discussion, this Court is not

inclined to investigate into disputed questions of facts and the petitioner is left to avail remedy before the competent court or forum.

Accordingly, this writ petition is disposed of.

(PRAKASH TATIA), J.

S.Phophaliya